

**Public Employees' Retirement Board  
Status of Retirement Legislation  
March 31, 2009**

**BOARD BILLS**

**HB 12 Working Retiree Bill – Require employer contributions on working retiree compensation.** Working retirees take the place of otherwise paying members and are a drain on the system. Working retirees will most likely increase as employers lose their experienced employees to retirement. Representative Bean has suggested an amendment to phase-in contributions for local governments. The amendment has state agencies making employer contributions for working retirees as of July 1, 2009 and local government agencies making employer contributions as of July 1, 2013.

*Sponsor:* Representative Franke Wilmer; Senator Larry Jent.

*Status:* **Passed out of Senate State Administration 7-2; 3/23/09**

*Assigned:* House State Administration, House Appropriations, Senate State Administration

*Actuarial Impact:* Decreases amortization period by 0.2 years

**HB 109 General Revisions Bill – Generally revise retirement statutes.** Ensure statute is clear and up-to-date.

*Sponsor:* Representative Chuck Hunter

*Status:* **Hearing 3/16/09; NRA amended in PERS and TRS to age 60, amendment passed, non-concurrence on bill as amended, 3/27/09; Amendment stripped, Bill Concurred 11-0, 3/30/09**

*Assigned:* House State Administration; Senate State Admin

*Actuarial Impact:* None

**HB 170 Qualification Bill – Ensuring tax qualification by IRS of certain retirement systems.** Amendments necessary for the plans to meet IRS qualifications.

*Sponsor:* Representative Mike Menahan; Senator Larry Jent

*Status:* **Passed House 3<sup>rd</sup> Reading in the House 76-23, 2/7/09; Transmitted to the Senate, 2/9/09; Referred to Senate State Administration, 2/21/09; Passed out of Committee 10-0, 3/23/09**

*Assigned:* House State Administration; Senate State Administration

*Actuarial Impact:* None

Bill amended in House State Administration with the Heroes Earning Assistance and Relief Tax (HEART) of 2008.

**HOUSE BILLS**

**\*HB 31 – Include dispatchers in SRS.** This legislation allows current PERS 911 dispatchers to elect coverage in SRS by October 1, 2009. If they elect SRS they have three choices: leave the PERS member account intact, transfer the PERS member account

to receive proportional service in SRS, or transfer the PERS member account to SRS and make an out-of-pocket purchase to receive full PERS service in SRS. All new hires after July 1, 2009 will be covered in SRS. There are 459 dispatchers. This legislation will impact both retirement systems.

*Sponsor:* Representative Franke Wilmer

*Status:* **Failed (9-9), Motion to Table failed in Committee (9-9), 1/23/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* House State Administration

*SRS Actuarial Impact:* Amortization period increases by 5.6 years. UAAL increases by \$3,603,000. Normal cost increases 0.07%. Total statutory shortfall of 0.30%.

*PERS Actuarial Impact:* Amortization period remains the same. UAAL decreases by \$1,892,000. Normal Cost rate increases by 0.01%.

*Note:* The SRS system currently has 1,109 members. Adding 911 dispatchers potentially increases membership by 42%. Also, currently SRS is predominantly male; adding the dispatchers dramatically changes the demographics of the system. Currently 911 dispatcher positions have high turnover. This legislation is proposed to retain those employees.

*Board Position:* Support, Fairness issue, Members electing the GABA must any out-of-pocket costs to transfer service credit.

**\*HB 32 – Increase benefits and contributions to FURS.** This bill increases the benefit factor in FURS from 2.5% to 3%. The legislation also proposes increasing member and State contributions by 1% to fund the enhancement.

*Sponsor:* Representative Franke Wilmer.

*Status:* **Tabled in Committee at sponsor request, 1/15/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* House State Administration

*Actuarial Impact:* Normal cost increases 4.7%. Amortization period increases 5.5 years, and UAAL increases \$19,774,000.

*Board Position:* Oppose, proposed funding does not cover the cost of the benefit enhancement.

**\*HB 33 – Redefine compensation for FURS.** This legislation includes overtime in the definition of annual compensation in FURS.

*Sponsor:* Representative Franke Wilmer.

*Status:* **Failed (12-6), Tabled in Committee, 1/23/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* House State Administration

*Actuarial Impact:* Increases UAAL \$7,456,000. Increases amortization period 0.2 years. Increases normal cost 0.01%.

*Board Position:* Support

**\*HB 124 – Reopen GABA enrollment for firefighters.** This legislation allows FURS members who did not elect participation in the Guaranteed Annual Benefit Adjustment (GABA) to have another election.

*Qualification Issue:* ICE Miller has expressed that the IRS will not look favorably upon this bill.

*Sponsor:* Representative Robert Mehlhoff

*Status:* **Tabled in Committee at sponsor request, 1/15/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* House State Administration

*Actuarial Impact:* Amortization period remains unchanged, unfunded actuarial liability increases by \$273,000 and the funding rate increases by 0.02%.

*Note:* The firefighters have indicated they will amend the bill to reflect the firefighters paying contributions plus interest back to the date of the last election so the system won't absorb the cost. At this time the bill isn't written that way. Also, the election period is through December 1, 2009. Increased contribution rates are not effective until January 1, 2010.

*Board Position:* Oppose due to IRS qualification issue.

**\*HB 142 – Eliminate automatic trigger that decreases employer contribution.** This legislation is proposed by the Governor's Office. It removes the sunset trigger for the increased employer contributions in PERS and SRS when the systems' unfunded actuarial liability can be amortized over less than 25 years without the increased contributions.

*Sponsor:* Representative Franke Wilmer.

*Status:* **Tabled in Committee, 1/21/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* House State Administration

*Actuarial Impact:* No actuarial impact statement was requested as the actuary is assuming that these contributions will remain in effect.

*Board Position:* Support

**\*HB 266 – Eliminate member contribution requirements for DROP participants of MPORS.** This legislation is proposed by the Montana Police Protective Association (MPPA). The bill eliminates the employer contributions during the DROP period.

*Sponsor:* Representative Galen Hollenbaugh

*Status:* **Tabled in House State Administration, 2/5/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* House State Administration

*Actuarial Impact:* Increases UAAL by \$4,240,000, Increases Normal Cost by 1.12%, Increases Amortization Period 2.9 years (from 18.6 to 21.5). Total Funding Required to Maintain Current Amortization Period – an additional 2.04% of compensation.

*Board Position:* Neutral

**HB 315 – Increase amount and slow phase out of retiree exclusion from income.** This legislation increases the maximum pension and annuity income exclusion from \$3600 to \$4000. It also reduces the total amount of the exclusion by \$1 (was \$2) for every \$1 of federal adjusted gross income in excess of \$30,000. This bill is effective on passage and approval, retroactively to January 1, 2009.

*Sponsor:* Anders Blewett

*Status:* **Passed 3<sup>rd</sup> Reading in the House, 92-8; Senate State Administration concurred, 3/28/09; Hearing Senate Taxation, 4/1/09**

*Assigned:* House Taxation, House Appropriations, Senate State Administration

*Actuarial Impact:* **None**

*Board Position:*

**\*HB 393** – Special contract for city police fund to transfer to statewide retirement plan. This legislation allows a city local police fund to contract for participation in the MPORS under special provisions.

*Sponsor:* Jeffery Welborn

*Status:* **Hearing, 2/4/09; Revenue Bill, transmittal deadline is 3/31/09; Tabled in Committee, 3/5/09**

*Assigned:* State Administration

*Actuarial Impact:* Actuary had a lot of technical concerns with the bill as written.

*Board Position:* Informational. Highlight issues.

**\*HB 619** – Sudan divestment act.

*Sponsor:* Mike Jopek

*Status:* **Hearing Scheduled, 3/11/09; Tabled in Committee, 3/11/09**

*Assigned:* House Appropriations

*Actuarial Impact:* Actuary had a lot of technical concerns with the bill as written.

*Board Position:* Oppose, the PERB wants BOI to get the best possible investment return, opposing any impediments.

**HB 626 – Revise transfer from local police retirement plan to statewide plan.** This legislation expands the period for excess liabilities payments from 10 to 30 years when a local police plan elects to join MPORS.

*Sponsor:* Jeffery Welborn

*Status:* **Scheduled for Hearing, 3/23/09; Passed out of Committee 8-1, 3/23/09; 2<sup>nd</sup> Reading Concurred, 47-1, 3/28/09; Scheduled for 3<sup>rd</sup> Reading, 3/30/09; Bill Concurred 50-0, 3/28/09**

*Assigned:* House State Administration; Senate State Administration

*Actuarial Impact:* None

*Board Position:* Support, the excess liabilities will be paid over a longer period of time, with interest at the actuarial assumed rate of 8%.

**HB 659 – Revise state retirement policy and law.** Directs SAVA Interim Committee to examine and recommend to the 62<sup>nd</sup> Legislature funding and benefit changes in the statewide public employees' and teachers' retirement systems. The bill provides an appropriation of \$200,000 for consultants.

*Sponsor:* Don Roberts

*Status:* **Passed 3<sup>rd</sup> Reading in the House 55-44, 3/25/09; Concurred in Senate State Administration 10-1, 3/27/09**

*Assigned:* House Appropriations, Senate State Administration

*Actuarial Impact:* None

*Board Position:* Support

**HB 679 – Eliminate defined benefit pensions; defined contribution as default.**

All new hires in all the state public employee retirement systems default to the defined contribution plan as of July 1, 2010.

*Sponsor:* Wayne Stahl Peterson

*Status:* **Introduced, 3/25/09; Table in Committee 10-9, 3/30/09**

*Assigned:* House Taxation

*Actuarial Impact:* Cost \$25,900 for the actuary to determine the impact to the Board's 7 retirement systems.

*Board Position:* Oppose

**SENATE BILLS**

**\*SB 282 – Increase threshold at which certain retirement income is exempt from income tax.** This legislation increases the maximum pension and annuity income exclusion from \$3600 to \$5000. This bill is effective on passage and approval, retroactively to January 1, 2009.

*Sponsor:* Jesse Laslovich

*Status:* **Hearing, 2/11/09; Tabled in Committee, 3/5/09**

*Assigned:* Senate Taxation

*Actuarial Impact:* **None**

*Board Position:*

**\*SB 284 – Increase income phase-out cap for pension and annuity exclusion.** This legislation increases the pension and annuity income tax exclusion by increasing the amount of income that can be earned (from \$30,000 to \$35,000) before the exclusion begins to phase out. This bill is effective on passage and approval, retroactively to January 1, 2009.

*Sponsor:* John Brueggeman

*Status:* **Hearing, 2/11/09; Tabled in Committee, 3/5/09**

*Assigned:* Senate Taxation

*Actuarial Impact:* **None**

*Board Position:*

**\*SB 295 – Allow legislators to retire from public employment while serving in the Legislature.** This bill states that a legislator is not subject to any minimum break in service and may subsequently serve in the legislature. The legislator is considered to have terminated service on the retirement date stated in the application for retirement benefits. May pose a qualification issue. Federal law requires a break in service to be considered retired. Montana Statute states you must have received your first retirement benefit check **and** have a 30-day break in service before returning to a covered position. We will ask for delayed implementation based on a private letter ruling from the IRS.

*Sponsor:* Senator Jim Keane

*Status:* **Tabled in Committee, 2/09/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* Senate Business, Labor and Economic Affairs

*Actuarial Impact:*

*Board Position:* Opposed, due to qualification issues. Continue to oppose due to carving out a privilege for a single group, opens the door to leap-frogging, conflicts with HB 12, issues with “normal retirement age” which is not currently defined in statute.

**\*SB 352 – Allow city or town authority to impose levy to fund firefighters’ retirement.** This legislation addresses levy authority for incorporated cities or towns with fire department relief associations. This legislation does not impact retirement systems administered by the Public Employees’ Retirement Board.

*Sponsor:* John Brueggeman

*Status:* **Tabled in Committee, 2/14/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* Senate Local Government

*Board Position:* NA

**\*SB 372 – Revise firefighter laws.** This legislation removes the BFOQ of age 35 for the FURS. The legislation is effective on passage, retroactive to April 26, 2007.

*Sponsor:* Gary L Perry

*Status:* **Tabled in Committee, 2/20/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* Business, Labor and Economic Affairs

*Actuarial Impact:* Possible increase in disabilities

*Board Position:* Oppose

**\*SB 373 – Revise firefighter laws.** This legislation removes the BFOQ of age 35 for the rural fire departments. The legislation is effective on passage, retroactive to April 26, 2007.

*Sponsor:* Gary L Perry

*Status:* **Failed on 2<sup>nd</sup> Reading in the Senate 21/29, 2/24/09; Indefinitely Postponed 26/24, 2/24/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* Business, Labor & Economic Affairs

*Actuarial Impact:* Possible increase in disabilities.

*Board Position:* Oppose

**\*SB 484 – Adjust retirement date for new hires.** New hires must have attained age 65 before receiving a regular retirement benefit. They may choose an early retirement. The early retirement reduction is ½ of 1% multiplied by the number of months up to 5 years and 3/10 of 1% for years over 5.

*Sponsor:* Joe Balyeat

*Status:* **Hearing Scheduled, 2/20/09; Passed out of Committee 6/5, 2/21/09; Passed 2<sup>nd</sup> Reading in the Senate 26/24, 2/25/09; Failed 3<sup>rd</sup> Reading 24/26, 2/26/09; Missed Deadline for General Bill Transmittal 2/26/09**

*Assigned:* Senate State Administration

*Actuarial Impact:* Normal Cost for future hires decreases from 11.02% to 9.98% of compensation. Amortization period decreases. Potential increased disability benefits.

*Board Position:* Oppose. No service requirement, possible increase in disability requests. Does not allow members to retire before age 65, despite years of service.

**SR 2 – Confirm certain governor’s appointees.** The governor has submitted Dianna Porter, Darcy Halpin and Loren Bough for Senate confirmation. He did not include Ray Peck. On 2/3/09, we received a copy of the letter filed with the Secretary of State stating that the governor has appointed Timm Twardoski to the Public Employees’ Retirement Board, effective immediately. Mr. Twardoski replaces Ray Peck. Mr. Twardoski is the Executive Director for AFSCME, Montana Council 9. Mr. Twardoski is included in SR 9.

*Sponsor:* Jim Shockley

*Status:* **SR 2-Filed with Secretary of State, 3/17/09;**

**SR 9-Filed with Secretary of State, 3/24/09**

*Assigned:* Senate State Administration

## **UNINTRODUCED BILLS**

**\*LC 0110 – Expand eligibility for FURS**

*Sponsor:* SAVA

*Status:* **Died in Process 12/26/08**

**LC 0202 – Increase multiplier in formula for excess of 15 years in JRS.**

*Sponsor:* Carol Williams

*Status:* **Draft on Hold, 12/18/08**

**LC 0744 – Revise pension law.**

*Sponsor:* Jim Keane

*Status:* **Draft on Hold, 1/17/09**

**LC 0745 – Process for appealing a public retirement board’s determination.**

Requested by Senator Jim Keane to change the consideration/reconsideration process and place the process in statute. Ms. Symons expressed concern that legislation may take us outside of MAPA (Montana Administrative Procedures Act). Committee Chair, Ray Peck, had a lengthy discussion with Senator Keane. Senator Kean is receptive to working with staff on revising the process in administrative rules.

*Sponsor:* Jim Keane

*Status:* **Draft on Hold, 1/06/09**

*Board Position:*

**LC 1111 – Increase retirement income exemption for income tax purposes.**

*Sponsor:* Janna Taylor

*Status:* **Draft on Hold, 1/31/09**

*Assigned:*

*Actuarial Impact:*

*Board Position:*

**\*Probably dead**